

Message

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Sent: 4/4/2019 8:58:59 PM
To: AO OPA OMR CLIPS [AO_OPA_OMR_CLIPS@epa.gov]
Subject: Daily Clips 4/4

Daily News Clips

April 4, 2019

Agency

- [E&E News: EPA tweeted trade group's info page instead of its own](#)
- [E&E News: Panel approves plan that could reverse cuts at EPA, other agencies](#)
- [PoliticoPro: Big Industries try to pull Trump back from the deregulatory brink](#)

Auto Show

- [Bloomberg Environment: Agencies Set to Ease Auto Standards Soon, EPA's Wheeler Says](#)
- [The Detroit News: EPA chief defends decision to pull out of Calif. mpg talks](#)
- [E&E News: Wheeler to Calif.: 'Don't sue us'](#)
- [PoliticoPro: Wheeler says auto rule coming 'spring or early summer'](#)

Chemicals

- [Chemical Watch: Members of Congress scrutinize efforts to 'debilitate' IRIS programme](#)
- [E&E News: States focus on chemicals linked to warming when feds won't](#)
- [The Hill: EPA's proposed weakening of mercury standards is bad business](#)
- [Inside EPA: Texas chemical incidents intensify calls for EPA protections](#)

Fuel

- [E&E News: Court examines oil and gas wastewater dumping](#)
- [Inside EPA: Ewire: Colorado lawmakers OK sweeping oil and gas bill](#)
- [S&P Global: EPA chief tells Congress redistributing waived biofuel volumes would not work](#)

Water

- [Bloomberg Environment: Toxicity Study of Chemours' GenX Expected by Year's End, EPA Says](#)

- [CBS Chicago: EPA Now Lets You Download Reports on Local Water System](#)
- [The Hill: Like hunting, fishing and beer? Defend the Clean Water Act](#)
- [The News-Herald: EPA head says department will seek full funding for Great Lakes restoration program](#)

Agency

E&E News

EPA tweeted trade group's info page instead of its own

<https://www.eenews.net/greenwire/stories/1060143483/search?keyword=epa>

Sean Reilly

Posted: April 4, 2019

EPA yesterday tweeted out a link to a webpage promoting programs to switch out older wood stoves for newer, cleaner-burning models. But it wasn't an official EPA page.

Instead, the agency steered followers of the @EPAair Twitter handle to a site run by the Hearth, Patio and Barbecue Association, an industry trade group lobbying hard for changes to EPA's 2015 emissions standards for new wood stoves.

"Interesting choice," Miles Keogh, executive director of the National Association of Clean Air Agencies, wrote later on his personal Twitter account.

"I'm not judging, just intrigued by the message this sends," Keogh added, noting that EPA has its own site dedicated to changeout programs.

In a follow-up interview this morning, Keogh said the issue wasn't the Hearth, Patio and Barbecue Association's site or the information on it. "It's just that the association ... has a very active policy-setting campaign afoot that has been aggressively seeking changes to the NSPS [New Source Performance Standards] for the product that their members make."

Keogh also asked whether the tweet was meant to send a signal to the industry that "a favorable outcome" could be on the way for two rulemakings launched last year in regard to those stricter standards for stoves and other wood-burning home heating appliances,

In an email, EPA spokesman Michael Abboud did not address that question but said the Hearth, Patio and Barbecue Association link "is not about the 2015 standards, but instead a website that points consumers and others to ongoing changeout and incentive programs."

"We agree that EPA's site contains useful, but not identical, information," Abboud said.

In a separate message, Emily McGee, an HPBA spokeswoman, said the group had not requested the tweet and was unaware of it before being contacted by E&E News. The association's government affairs team had also heard nothing on the rulemakings' status and is "just hoping that they make announcements soon," McGee said.

Under one of the two regulatory proposals, both unveiled in November, EPA would allow some dirtier-burning heating systems to stay on the market longer. Under the other, the agency sought public feedback on the option of rolling back the final May 2020 compliance deadline for those stricter emissions limits. The comment periods for both are now closed; it is unclear how soon the agency will proceed on either front. Apart from seeking help directly from EPA, HPBA has also pushed for legislation to delay the compliance deadline until May 2023.

The 2015 standards marked the first update since EPA originally set the emissions limits in 1988.

While HPBA says that some of its member companies need more time to meet the new version, the National Association of Clean Air Agencies, which represents some 160 state, local and territorial regulators, and other critics contend that the industry will have had five years to comply by 2020 and that some manufactures have already done so.

Wood-burning heating appliances are major sources of particulate matter, a pollutant linked to an array of heart and lung problems.

At a hearing yesterday on EPA's proposed 2020 budget, Sen. Lisa Murkowski (R-Alaska), chairwoman of the Interior, Environment and Related Agencies Appropriations Subcommittee, cited Fairbanks-area residents' reliance on wood-burning appliances as she raised concerns with EPA Administrator Andrew Wheeler over the agency's handling of the area's compliance status for national standards on fine particulate exposure.

Lisa Rector, a policy and program director at Northeast States for Coordinated Air Use Management, based in Boston, likewise found it "interesting" that EPA opted to pitch the HPBA site. "I wish they had promoted a site that was actually comprehensive in its review of the changeout programs that are out there," Rector said in an interview today.

Apart from providing a link to an American Red Cross site in February, the @EPAAir Twitter feed has not promoted any other nongovernmental website this year, a review indicates.

In 2017, then-EPA Administrator Scott Pruitt came under fire for appearing in a National Cattlemen's Beef Association video urging ranchers and farmers to weigh in on what was then the agency's proposed repeal of the Obama-era Clean Water Rule.

In a ruling released last August in response to a request from senior congressional Democrats, the Government Accountability Office found that Pruitt did not violate legal prohibitions on the use of government money for propaganda or lobbying by participating in the video.

Reporter Kevin Bogardus contributed.

E&E News

Panel approves plan that could reverse cuts at EPA, other agencies

<https://www.eenews.net/eedaily/stories/1060142387/search?keyword=EPA>

George Cahlink

Posted: April 4, 2019

Billions of dollars could flow to the Interior and Energy departments, as well as EPA, reversing spending cuts proposed by the Trump administration under a plan backed yesterday by Democrats on the House Budget Committee.

The committee approved legislation 19-17, squarely along party lines, that would raise discretionary spending caps for fiscal 2020 and fiscal 2021, which the White House has used to justify deep domestic cuts.

The measure would do so by lifting funding restraints that were originally put in place by the 2011 Budget Control Act. The bill could be on the House floor as early as next week.

Budget Chairman John Yarmuth (D-Ky.) said the plan would stop "extreme cuts from being implemented, helps prevent another government shutdown, gets us past the distraction and politics of the 2020 elections, and achieves stability and responsible governing in the face of recklessness."

Arkansas Rep. Steve Womack, the panel's top Republican, countered that the Democrats' measure ignores rising federal debt, fails to include budget offsets and does not contain any input from GOP lawmakers or the White House.

He said he, too, favors raising the caps, but only "gradually," with a focus on more military spending and mandatory spending restraints.

Several Republican amendments to raise defense spending and freeze domestic spending were rejected by the committee.

The final legislation would set nondefense spending for fiscal 2020 at \$631 billion, a 5.7% increase over current spending, and \$646 billion for fiscal 2021. Defense spending would be set at \$664 billion for fiscal 2020, a 2.6% increase over current spending, and \$680 billion for fiscal 2021.

Additionally, defense accounts would be boosted by \$69 billion over two years via increases to the Overseas Contingency Operations account, a Pentagon fund used for paying war costs that does not count against budget caps.

Democrats said if the caps are not increased, they would be required by law to cut \$125 billion, or 10%, in fiscal 2020 from current spending levels or face automatic reductions, known as sequester.

They also argued the increases are largely equal — a term referred to as "parity" on Capitol Hill — between defense and nondefense accounts when measured against the proposed spending caps.

The legislation only sets overall spending levels, and it would still be up to House leaders to allocate the specific dollar amounts for the 12 annual appropriations bills that fund agencies.

EPA, which is marked for a more than 30% cut under Trump's budget, and Energy and Interior, which face more modest fiscal 2020 reductions, would likely benefit from any increase in domestic spending.

Rep. Betty McCollum (D-Minn.), chairwoman of the House Interior-EPA Appropriations Subcommittee, said earlier this week she would seek a "significant bump" for fiscal 2020, a request that could be granted under the proposed domestic spending increase.

But the House Democrats' plan marks only their opening bid in what are expected to be long, tough negotiations with Senate Republicans and the White House regarding final, fiscal 2020 spending.

The Senate GOP unveiled its own fiscal 2020 budget last week. It would keep spending caps in place but included a provision that would allow them to be raised if a bipartisan spending deal is struck.

The White House has said repeatedly it would only support an increase in defense caps.

House Democrats opted to set the spending caps rather than write a full fiscal 2020 budget resolution, which would lay out more detailed funding and revenue goals for the next decade.

Yarmuth conceded that splits in the party over spending priorities, including the Green New Deal, made it too difficult to round up the 218 votes that would have been needed to adopt a budget by the full House.

Womack said the "failure to adopt a budget is a failure to govern," while Yarmuth noted that the GOP, too, had been unable to pass a full 10-year budget when it held the majority.

PoliticoPro

Big Industries try to pull Trump back from the deregulatory brink

<https://subscriber.politicopro.com/article/2019/04/big-industries-try-to-pull-trump-back-from-the-deregulatory-brink-1314378>

Alex Guillen

Posted: 5:00am, April 4, 2019

President Donald Trump's deregulatory agenda is running into opposition from an unusual place: the businesses he says he is trying to help.

Industries that had decried sweeping Obama-era rulemakings are discovering the Trump administration is at times going too far in the other direction. Automakers want tighter fuel economy rules. Utilities say an EPA proposal to reconsider mercury limits could cost them \$18 billion. Oil and gas drillers want the Trump administration to regulate methane pollution. And manufacturers are warning they may be cut off from export markets unless the president backs an obscure climate treaty.

While these concerns have not provoked any major public splits with a president who has slashed corporate taxes and installed business-friendly leaders across the government, executives and lobbyists are trying to quietly reverse some proposals they say threaten their businesses and cost jobs. But they show how the Trump administration's desire to break with former President Barack Obama may outweigh the concerns of businesses that have to navigate the complex regulatory and legal process.

"I think what you're seeing here is the impact of this administration wanting to make really big, bold statements and really wanting to make wholesale changes," said Kevin Minoli, a former acting general counsel at EPA now at the law firm Alston & Bird. "And it may be that people who advocated for review of some of the previous administration's rules didn't understand what the approach was going to be when they were advocating for that."

The most immediate worries are coming from automakers who do not know what rules will apply to cars they need to put on dealerships' lots by next summer. The Trump administration has proposed freezing Corporate Average Fuel Economy standards and revoking the authority of pollution-choked states like California to enforce tougher requirements — but the resulting legal fight is likely to take years to resolve.

"Automakers definitely got more than they bargained for," said Jeremy Acevedo, manager of industry analysis at Edmunds. "The general consensus was this was a bit more extreme a policy change than even they anticipated."

Just days after his election, automakers wrote to Trump asking him to revisit Obama administration rules that steadily tightened greenhouse gas emissions limits for vehicles through model year 2025. EPA and the National Highway Traffic Safety Administration quickly got to work on a new set of rules that went far beyond what the industry had requested.

"The industry made clear that they wanted meaningful year-over-year increases and they did not want a fight with California, wanted to avoid litigation and have a national standard," said Robert Bienenfeld, assistant vice president for environment and energy strategy at American Honda Motor Co.

The joint proposal last summer from EPA and NHTSA instead called for freezing the standards completely after model year 2020. The agencies also declared war on California by arguing that the state has no right to enforce higher standards on greenhouse gases, something California has been doing for other pollutants for decades.

Such significant changes on such a short timeline — model year 2021 vehicles hit the lots next summer — pose big risks to automakers because of what is expected to be nasty, protracted litigation brought by California and green groups. In addition, automakers still want some level of stricter standards both to recover their investments in fuel efficiency and electric vehicles and to stay competitive in overseas markets that continue to increase efficiency requirements.

Automakers have kept a cautious tone in public as they seek to influence the rulemaking into something more manageable. But Acevedo said vague criticisms will not be enough for the industry to get the certainty it needs.

“Specificity is key to reopen something,” he said. “It is really an issue for the automotive industry right now because they’re left without a real footing or solutions.”

The worries aren’t just limited to car companies.

Other industries have found themselves similarly asking the administration to temper its deregulatory plans for varying reasons.

Last month, the U.S. Chamber of Commerce — which frequently fought against Obama-era rules — joined powerful utility groups to urge EPA against finalizing a rulemaking that could undercut a major Obama regulation limiting mercury pollution from power plants.

EPA’s proposal could jeopardize up to \$18 billion that utilities have invested in pollution control technologies, they say. If those controls can’t be justified by an EPA rule, many utilities fear they won’t be able to persuade state regulators to let them recoup that money from ratepayers, forcing companies to eat the expense. (Most of the cost comes from the initial capital expenditures, not ongoing operations, so turning off the controls would not save much money.)

In addition to any business benefits industry may derive, stronger regulations mean less pollution and better public health, said John Walke, director of the clean air, climate and clean energy program at the Natural Resources Defense Council.

"The arguments about health and environmental benefits do not sway the Trump administration at all," he said. "The jury is still out whether those business arguments will even sway an administration like this one that is committed to deregulation out of fervent ideology rather than rational thought."

Separately, major oil and gas producers including Exxon, Shell, Equinor and BP have in recent months called for direct federal regulation of methane pollution — a potent greenhouse gas — from both existing and future wells.

The Trump administration has been moving in the opposite direction.

Just weeks after arriving at EPA, then-Administrator Scott Pruitt put the kibosh on early efforts to write a rule covering the nation’s hundreds of thousands of existing wells. EPA has since eased parts of a rule that applies to newly built wells, and some environmentalists say it is preparing for a wholesale rollback of any methane rules for the oil and gas industry.

The Interior Department has also repealed key parts of its own methane regulation, known as the venting and flaring rule. It would have required wells on public lands to find and capture waste methane instead of leaking it or burning it off into the atmosphere.

Meanwhile, the manufacturing industry is lobbying hard to get the president to allow the Senate to ratify an amendment to a treaty called the Montreal Protocol that would require companies to phase down the use of hydrofluorocarbons, another potent greenhouse gas. U.S. companies that make next-generation coolants hope the agreement will help them sell their product to the rest of the world, but they could face trade issues if the amendment negotiated by the United Nations in 2016 is not ratified. Manufacturers have been joined by the Chamber and environmentalists, and 13 Senate Republicans have called for ratification.

One utility industry source who spoke on condition of anonymity pointed to a common theme among these controversial rulemakings: The Trump administration has sided with fuel producers, not necessarily the bigger industries that are directly affected. The source says automakers opened "Pandora's box" when they asked Trump for help on the CAFE standards.

For example, the oil industry will benefit from freezing efficiency standards, to the tune of 500,000 extra barrels of oil per day, according to EPA's own estimate. The mercury rollback was pushed by coal producer Murray Energy and the Utility Air Regulatory Group, a coalition of coal-heavy utilities whose lawyers used to include EPA air chief Bill Wehrum.

And while the oil and gas industry has complained about methane regulations before, big drillers like Exxon and Shell have now come out in support of some type of regulation. Oil majors' ability to out-compete smaller drillers on pollution control costs is thought to be a major factor, along with concerns about potential regulations from future administrations as well as the companies' public images.

An upcoming trade tussle offers Trump another opportunity to side with fuel producers over a bigger industry.

Two uranium mining companies have asked him to institute a steep import quota that would immediately skyrocket the price of the nuclear fuel, a major boon to the tiny uranium mining industry. But the tariffs are opposed by groups like the Chamber and the Nuclear Energy Institute over fears that pricey uranium will drive nuclear plants out of business or eat into revenues.

The Commerce Department is slated to make a recommendation to Trump later this month.

Auto Show

Bloomberg Environment

Agencies Set to Ease Auto Standards Soon, EPA's Wheeler Says

<https://news.bloombergenvironment.com/environment-and-energy/agencies-set-to-ease-auto-standards-soon-epas-wheeler-says>

Abby Smith, Jennifer Dlouhy

Posted: 10:54am, April 4, 2019

- ‘Growing evidence’ that automakers can’t comply with standards justifies weakening, Wheeler says
- EPA head said final fuel economy limits expected in spring or early summer

The head of the EPA is defending Trump administration plans to weaken federal fuel economy standards that he said automakers can’t meet without relying on compliance credits.

“There is growing evidence that automakers cannot comply with the trajectory of the current standards,” Environmental Protection Agency Administrator Andrew Wheeler said April 4 at the Washington Auto Show.

Recent Transportation Department data suggests a looming shortfall of compliance credits, he said.

“This data begs the question: Why not revise standards that most automakers can only comply with through fees?” Wheeler added. “The truth is the changes are needed.”

Under the fuel economy program, the EPA regulates greenhouse gas emissions through tailpipe standards, and the National Highway Traffic Safety Administration governs cars’ fuel efficiency. Automakers can earn credits—by applying technologies not included in the standards—to use to help meet the limits.

The Trump administration, however, would eliminate or sharply reduce many of those credit opportunities in its August 2018 proposal to freeze fuel economy standards at 2020 levels. Trump officials, including Wheeler, have justified the move in large part by claiming the proposal would save lives by making new cars more affordable and taking older cars off the roads.

But Wheeler’s remarks at the auto show suggest the Trump administration is also wary of a program in which companies comply using credits.

No Compromise with California

Automakers and auto part manufacturers have historically supported the EPA and NHTSA’s credit programs and have asked the agencies to expand those programs in the revised fuel economy standards.

Expanding the credit programs could also have offered a path toward compromise with California regulators.

California has a special ability under the Clean Air Act to set its own tailpipe greenhouse gas limits, and the state has already adopted the Obama-era limits through 2026. More than a dozen other states have signed onto California’s standards.

The Trump administration has proposed to revoke that authority, and California officials have threatened to sue if the agencies finalize that approach.

The White House in February said it was ending months of talks with California regulators in search of a compromise.

Wheeler said at the auto show he hopes court fight is “not inevitable,” but if California is going to sue, “we want to get this into the courts as quickly as possible” to provide certainty for automakers “as quickly as we can.”

The administration expects to finalize its proposal in the spring or early summer, Wheeler said.

—With assistance from Ryan Beene (Bloomberg).

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The Detroit News

EPA chief defends decision to pull out of Calif. mpg talks

<https://www.detroitnews.com/story/business/autos/2019/04/04/epa-chief-defends-decision-pull-out-california-mpg-talks/3362660002/>

Keith Lang

Posted: 11:36am, April 4, 2019

Washington — U.S. Environmental Protection Agency Administrator Andrew Wheeler defended the Trump administration's decision to pull out of talks with California about new rules for gas mileage.

Speaking to reporters Thursday at the Washington Auto Show, Wheeler said he is confident the Trump administration's proposal to roll back stringent rules that would require automakers to produce fleets that average more than 50-miles-per-hour by 2025 will hold up in court if it is successfully finalized later this year.

"Our goal from the beginning was a 50-state solution," he said. "I met with (the California Air Resources Board) three times since taking the helm of EPA last July. But despite our best efforts, we could not reach a solution and decided to end the discussions. We embrace federalism and the role of states, but federalism does not mean that one state can dictate the standards for the entire nation."

Asked what would happen if California proceeds with a lawsuit that has already been filed over the proposal to rule back mileage rules, Wheeler said: "We'll go to court if they do that. I believe we're on firm legal footing and I believe that our standards will be upheld by the courts."

The Trump administration announced last year its intention to ease stringent gas-mileage rules that would have required fleets averaging more than 50 miles per gallon by 2025. The administration proposed a freeze in the mandate after 2020, when their lineups must average 39 mpg.

Automakers cheered the decision to reopen the so-called midterm review they were promised when the Obama-era gas mileage rules were agreed to in 2011. But they hoped the Trump administration would quickly reach an agreement with

California on a new set of rules to prevent a lengthy legal battle that would leave the mpg requirements for the next half-decade in limbo.

The Trump administration has floated the idea of moving to revoke a longstanding waiver allowing California and other states to set their own stricter auto emissions standards. Thirteen states and Washington, D.C., have adopted California's mileage rules, meaning automakers could be left with one set of rules for a quarter of the country and another set for the remaining states.

Revoking California's waiver, which is enshrined in the Clean Air Act, would require an act of Congress that is unlikely with the U.S. House under Democratic control.

Wheeler said the Trump administration is focused on making sure new cars are affordable enough for consumers to purchase new models that are more fuel-efficient.

"Our overarching goal is to get more Americans into newer, safer, cleaner vehicles," he said, noting that the average age of a car on U.S. roadways is more than 12 years.

Wheeler touted the EPA's enforcement actions against automakers that have been investigated for emissions violations. The agency reached an \$800 million settlement with Fiat Chrysler Automobiles this year to resolve allegations from federal regulators that the company used software on about 104,000 diesel-powered pickups and SUVs that is similar to "defeat devices" used by Volkswagen AG to cheat U.S. emissions-testing.

"We're committed to vigorously enforcing the nation's environmental laws," Wheeler said Thursday. "EPA has stopped the sale of over 1 million after-market defeat devices...In this year alone, we've stopped roughly 2,220 illegal vehicles and engines at the border and held the importers and the manufacturers accountable for many more illegal foreign products."

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E&E News

Wheeler to Calif.: 'Don't sue us'

<https://www.eenews.net/greenwire/stories/1060143441/search?keyword=epa>

Maxine Joselow

Posted: April 4, 2019

EPA Administrator Andrew Wheeler today expressed hope that California would not sue the agency once it finalizes the rollback of Obama-era clean car rules.

"I hope when we come out with our final regulation, California takes a look at it ... and they realize that this is the best regulation for the country as a whole and that they don't sue us," Wheeler said this morning at the Washington Auto Show.

"That would be my ultimate hope," the EPA administrator said.

EPA and the National Highway Traffic Safety Administration are in the process of rolling back Obama-era fuel economy and greenhouse gas standards for light-duty vehicles.

The two agencies are proposing to flatline fuel economy requirements through 2026 and preempt California from setting tougher tailpipe pollution rules than the federal government.

A coalition of 17 states and the District of Columbia filed a lawsuit last year over the Trump administration's initial bid to loosen the car rules (*E&E News PM*, May 1, 2018). California Attorney General Xavier Becerra (D) has hinted at the possibility of another lawsuit once the rollback is finalized.

More legal action became even more likely last month, when the White House announced it was breaking off negotiations with California over the car rules (*Greenwire*, Feb. 21).

"Our goal from the beginning was a 50-state solution," Wheeler said today. "I met with [the California Air Resources Board] three times since taking the helm of EPA last July. But despite our best efforts, we could not reach a solution and decided to end the discussions."

He continued, "We embrace federalism and the role of states, but federalism does not mean one state can dictate the standards for the entire nation."

Asked when the Trump administration hopes to finalize the rollback, Wheeler hedged. "When I first worked at EPA, my boss told me, 'Always talk in terms of seasons, not quarters, because seasons last a lot longer than people realize,'" he said.

"We expect to finalize it in the spring or early summer. You can check your calendar to see when that is," he added, drawing scattered laughter from the audience.

Wheeler also announced the availability of new data on EPA's website showing environmental progress in the auto manufacturing sector. The data shows total air emissions from auto manufacturing fell from 77 million pounds in 1996 to 15 million pounds in 2017, he said.

The EPA chief spoke for roughly 30 minutes at the Washington Auto Show to a group of reporters and auto industry representatives. His stump speech included a litany of familiar talking points, including an anecdote about President Trump asking him to clean up the nation's air and water while reducing regulatory burdens.

PoliticoPro

Wheeler says auto rule coming 'spring or early summer'

<https://subscriber.politicopro.com/article/2019/04/wheeler-says-auto-rule-coming-spring-or-early-summer-3010750>

Alex Guillen

Posted: 9:41am, April 4, 2019

EPA Administrator Andrew Wheeler said today that the Trump administration's new auto emissions and fuel efficiency rule will be finalized "in the spring or early summer."

“When I first worked at EPA my boss told me, ‘Always talk in terms of seasons, not months, because seasons last a lot longer than people realize,’” Wheeler said at a press conference at the Washington Auto Show. “We expect to finalize it in the spring or early summer. You can check your calendar to see when that is.”

That could put the rule’s release as late as July. Automakers are nervously eyeing the administration’s progress as litigation could quickly last through 2020, when dealers will start selling model year vehicles at issue in the rule.

Wheeler said that he hopes litigation brought by California or environmentalists proceeds quickly given manufacturers’ concerns.

“If they’re going to sue, we want to get this into the courts as quickly as possible to provide certainty for the automobile manufacturers as quickly as we can,” he said. “Our goal, however, is still a 50-state solution and I hope when we come out with our final regulation, California takes a look at it, they see the underlying assumptions that we’ve made, they see the progress that we’re making and they realize that this is the best regulation for the country as a whole and that they don’t sue us. That would be my ultimate hope.”

Chemicals

Chemical Watch

Members of Congress scrutinize efforts to 'debilitate' IRIS programme

<https://chemicalwatch.com/75970/members-of-congress-scrutinise-efforts-to-debilitate-iris-programme>

Kelly Franklin

Posted: April 4, 2019

Senator Tom Udall (D–New Mexico) and congresswoman Betty McCollum (D–Minnesota) have accused the US EPA of deliberately undermining the Integrated Risk Information System (IRIS) programme.

Their concerns, raised in a 28 March letter to EPA Administrator Andrew Wheeler, largely stem from a recent Government Accountability Office (GAO) report. This flagged up that the number of substance reviews under IRIS has been reduced from 22 to 11, and that programme staff have increasingly been called upon to work on TSCA evaluations instead.

"EPA leadership took steps to effectively cut the IRIS programme’s funding by reducing its workload by 50% and reassigning significant portions of staff time to other activities," wrote Mr Udall and Ms McCollum. "We view these steps as clear efforts to debilitate the IRIS programme."

The disruption to IRIS operations, they continued, was contrary to Congressional direction, after the legislature "specifically and overwhelmingly rejected" proposed cuts to IRIS in both the fiscal year 2018 and 2019 budgets. The programme is intended to support chemical assessments in other parts of the agency. And it is intentionally placed in the Office of Research and Development (ORD), they wrote, to free its assessments from regulatory and non-scientific policy factors.

"By re-assigning a substantial portion of IRIS staff time outside of ORD, EPA leadership worked at cross-purposes to the programme's intent and the agency's own stated goals to support the chemical assessment needs of many other parts of the agency," they said.

The two lawmakers have called on agency leadership to reassign IRIS staff back to the programme and return it to its originally planned workload.

Budget cuts disputed

Elsewhere on Capitol Hill, subcommittees of both the Senate and the House appropriations committees held hearings reviewing the administration's 2020 budget proposal this week.

In testimony, Mr Wheeler faced questions on several hot-button topics, including the EPA's regulation of paint removers containing methylene chloride, what steps are being taken around per- and polyfluoroalkyl substances (PFASs), and whether the agency will move to ban asbestos.

More broadly, however, members of Congress pressed Mr Wheeler on the Trump budget request to cut EPA spending from \$8.8bn to \$6.1bn.

Ms McCollum (D-MN), who chairs the House appropriations subcommittee on the environment, said this request "completely fails to support the EPA's mission."

But she said that despite similar proposals in the past two years, Congress has "rejected these disastrous proposed cuts to EPA's budget on a bipartisan and bicameral basis." And, she said, it is likely to do so again.

Senator Lisa Murkowski (R-Alaska), chair of the Senate appropriations subcommittee on the environment, agreed: "The final budget for EPA as crafted by Congress will look substantially different than this request."

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E&E News

States focus on chemicals linked to warming when feds won't

<https://www.eenews.net/climatewire/stories/1060142223/search?keyword=EPA>

Benjamin Storrow

Posted: April 4, 2019

States are stepping up efforts to regulate a group of potent greenhouse gases used in air conditioners, refrigerators and insulating foams.

The push to restrict use of hydrofluorocarbons, or HFCs, playing out in state capitals across the country represents one of the clearest examples of interstate coordination on climate policy.

It follows two years of inaction at the White House, where President Trump has not submitted a 2017 international treaty restricting HFCs to the Senate for ratification, and a federal court decision knocking down an Obama-era rule to phase out the chemicals nationally.

The state measures are modeled after the Obama EPA effort and come as the Trump administration has proposed scaling back a rule aimed at preventing HFC leaks ([*Greenwire*](#), Sept. 20, 2018).

"This is in line with our work to look at the federal actions that are happening and to push back where anti-climate rollbacks are occurring," said Reed Schuler, a climate adviser to Washington Gov. Jay Inslee (D). "The EPA under President Trump is not moving to confront the issue of HFCs. We know HFCs are growing in Washington and across the country and are increasing share of national emissions."

California passed a law to limit HFCs last year. Washington lawmakers appear poised to follow suit. A bill calling for a reduction in HFCs has passed the state House and is now under consideration in the state Senate. Regulators in Connecticut, Maryland and New York are weighing similar rules.

More states may soon follow. The issue has emerged as a focal point for the U.S. Climate Alliance, a coalition of 22 states and Puerto Rico committed to the Paris climate accord.

"If you have widespread adoption across alliance states, which is not where we are, you're talking about half the population using alternatives" to HFCs, said Julie Cerqueira, the alliance's executive director. "It certainly is a significant opportunity."

States have struggled to pass meaningful carbon reduction policies in the two years since Trump initiated America's withdrawal from the Paris Agreement, despite pledges to redouble their climate efforts.

That has begun to change this year. New Mexico recently passed a law to green its electricity supply, and several other states may soon follow. Washington lawmakers are advancing a suite of bills aimed at slashing emissions from electricity, transportation and buildings. Oregon looks like it will join California's cap-and-trade program. And a collection of Northeastern states are working on their own cap-and-trade program for transportation.

HFCs nonetheless represent a unique opportunity for states to make a meaningful contribution to climate policy. Unlike vehicle emission standards, federal law does not preempt states from regulating HFCs.

The pollutants, commonly used as a coolant in air conditioners and refrigerators, are also something of a rarity among greenhouse gases. Not only are they uncommonly powerful at trapping heat in the Earth's atmosphere, but there is widespread agreement that their use should be limited.

In 2016, 197 countries agreed to amend the Montreal Protocol to reduce their use ([*Climatewire*](#), Oct. 17, 2016). The deal reached in Kigali, Rwanda, calls for a 40% reduction in HFCs by 2024 and ultimately envisions use of the superpollutant falling to 15% of 2011-2013 levels by 2036.

Companies like Honeywell International Inc., Chemours Co., Carrier Corp. and the industry's main trade group, the Air-Conditioning, Heating and Refrigeration Institute (AHRI), have argued the agreement could be a boon for American firms through the manufacture of HFC alternatives and next-generation air conditioners and refrigerants ([*Climatewire*](#), Jan. 7). An industry-backed [study](#) estimated ratification of the Kigali Amendment would result in the creation of 1,400 jobs and \$1 billion in capital investment.

"We've made it clear to the administration that the economic benefits of this transition, of an HFC phasedown, are significant domestically, and what it will let us do to capture a global market," said Kevin Fay, who represents the Alliance for Responsible Atmospheric Policy, an industry group in favor of Kigali ratification.

A White House spokesman declined to comment.

Environmentalists support the restriction of HFCs on climate grounds. Some HFCs have a global warming potential [several thousand times](#) greater than carbon dioxide over their lifetime in the atmosphere. Full

implementation of the Kigali Amendment is projected to limit nearly a half-degree Celsius of additional planetary warming. That would be a major boost to efforts to keep a global rise in temperatures below 2 C. Greens say state action is important because not all companies are on board with the timetable for reducing HFC use. Two HFC manufacturers, Mexichem Fluor Inc. and Arkema SA, sued EPA over its 2015 plan to reduce the chemicals. The U.S. Court of Appeals for the District of Columbia Circuit ruled in favor of the companies, saying the agency had exceeded its authority under the Clean Air Act (*Greenwire*, Aug. 8, 2017).

"The goal of the state actions is to keep American industry on the transition pathway and to have the U.S. do its part in the reduction of HFCs," said David Doniger, senior strategic adviser for the Natural Resources Defense Council's climate and clean energy program. "You could get there by having 50 states adopting state rules, but you don't have to if half a dozen or more large states send a signal that keeps the de facto national trend moving forward."

Industry representatives have expressed unease at the state efforts, raising concerns about the creation of a regulatory patchwork and states' ability to enforce the rules.

"Letting us devolve to a number of state programs will significantly scale down the economic benefits that are possible," Fay said.

AHRI also strongly prefers a federal standard to state ones, said Francis Dietz, a spokesman for the trade group.

"But we're sympathetic to states being concerned that the federal government isn't moving as quickly as we'd like," he said. "We're working with them to make sure that at very least they harmonize their own phasedown plans."

Environmentalists and state officials acknowledge those concerns. They, too, express a preference for a federal standard.

To address industry's worries, state officials have routed their efforts through the Climate Alliance in an effort to standardize their rules.

Maryland Environmental Secretary Ben Grumbles said in a statement that alliance members are planning meetings later this year to "promote consistency among states on HFC regulations." Maryland is working on a draft rule now and is aiming to finalize a standard by 2020.

New York officials said they are now accepting informal feedback and anticipate releasing a draft regulation later this year. They also noted they would consider changes to synchronize the rules to those in California and Washington.

The Hill

EPA's proposed weakening of mercury standards is bad business

<https://thehill.com/opinion/energy-environment/437230-epas-proposed-weakening-of-mercury-standards-is-bad-business>

Howard A. Learner

Posted: 5:30pm, April 3, 2019

The Trump administration's EPA proposal to weaken the landmark Mercury and Air Toxics Standards (MATS) distorts cost-benefit analysis in ways that no reasonable business would do. Savvy businesses try to achieve

multiple benefits when installing new equipment and using management practices such as company wellness programs that improve employees' health while also holding down insurance costs.

Indeed, that's what the energy industry does when installing pollution control equipment to meet current regulatory standards. They strategically analyze a cost-effective combination of scrubbers, catalytic controls and other approaches to maximize efficiency in reducing sulfur dioxide, nitrogen oxides, mercury, particulates and other pollutants from coal plants. Achieving these "co-benefits" is sound business practice and common sense.

The EPA, however, is now moving in the opposite direction by undercutting its own mercury pollution reduction standards. The EPA's MATS proposal distorts proper cost-benefit analysis by not counting all the important co-benefits. The costs are then weighed against less than the full benefits achieved. Voila! The revised calculation produces a different regulatory result by undervaluing improved public health and better environmental performance.

The irony here: Almost all coal plant operators have already installed cost-effective modern pollution control equipment to reduce mercury emissions. The electric utility industry, environmentalists and public health groups have thus banded together to oppose EPA's changes. The comment period for EPA's proposed changes ends April 17.

So why is the EPA pursuing this misguided course? To make MATS look too expensive and to more broadly skew the cost-benefit analysis that's used for setting many regulatory standards. That's wrong for three fundamental reasons.

1. Mercury produces severe, damaging impacts on kids' health and the environment. Mercury is a neurotoxin that harms fetal brain development resulting in great pain to children and their families, other health issues, and huge societal and economic costs. Since EPA adopted MATS in 2011, coal plants have reduced mercury pollution by as much as 90 percent, thereby reducing public harms and health care costs.

When mercury gets into the air from coal plants and incinerators, it's carried by precipitation into rivers and lakes, settling at the bottom. It then makes its way into tiny plants that are eaten by small fish, which, in turn, are eaten by increasingly larger fish. When those mercury-laden fish are eaten by pregnant women and women of childbearing years, the mercury gets into their bloodstreams and passes through the placental barrier causing fetal brain damage. Sadly, it's not safe to eat the fish you catch in the Great Lakes and many other places.

2. EPA's proposed recalculations ignore the real-world co-benefits of protecting public health and reducing multiple pollutants from combinations of mercury controls and other equipment. By undercounting the full benefits, EPA skews the cost-benefit analysis to satisfy its coal mine owner allies.

Why consider co-benefits? Because that's what any sensible business or governmental agency does. That's why coal plant owners install modern pollution control equipment in ways that achieve multiple, synergistic pollution reduction benefits. In short, achieve the biggest bang for their pollution control buck.

3. Coal plant owners have already installed mercury pollution reduction equipment at a lower cost than expected. Weakening MATS now wouldn't save them money, but it would cause children and their families more harm. It would perversely change the proper calculation of costs and benefits for setting future public health and environmental regulatory standards.

The EPA's flawed approach of ignoring the full benefits of MATS trumps children's health and rational economic analysis in order to serve ideological and coal mine owners' interests. That's foolish policy, unsupportable economic theory and contrary to sound business practices. The American people deserve better.

EPA's misguided proposal should be scrapped and, if necessary, reversed by the courts as contrary to both law and common sense.

Howard A. Learner is the executive director of the Environmental Law & Policy Center of the Midwest. ELPC is the leading Midwest public interest environmental legal advocacy organization, and among the nation's leaders, working to improve environmental quality, protect public health, and protect natural resources in ways that grow the regional economy. Follow him on Twitter at @HowardELP.C

Inside EPA

Texas chemical incidents intensify calls for EPA protections

<https://insideepa.com/daily-feed/texas-chemical-incidents-intensify-calls-epa-protections>

Staff

Posted: April 4, 2019

Three chemical release incidents at Houston-area facilities in the last three weeks are intensifying calls for EPA and other federal agencies to bolster protections for fence-line communities, increase agencies' budgets and preserve and strengthen agency rules.

"These sequential disasters highlight the dire need for more and better protections for these fence line communities. Polluters should not get a free pass to pollute our communities and harm our neighbors," Public Citizen said in an [April 2 statement](#).

Their comments come after a [fatal incident](#) at KMCO, LLC -- a specialty chemical manufacturing facility in Harris County, TX.

The incident was the third in recent weeks. Last month, a fire (<https://www.reuters.com/article/us-refinery-operations-exxon-baytown/exxon-reduces-gasoline-output-at-baytown-texas-refinery-after-fire-sources-idUSKCN1QX0QW>) at Exxon's Baytown petroleum refinery forced the facility to scale back production.

Also, a March 17 fire at Mitsui & Co's Intercontinental Terminals Co (ITC) in Deer Park, TX, burnt for days, resulting in significant releases of naphta, xylene, benzene -- a known carcinogen -- and other substances from above ground storage tanks.

EPA and the the U.S. Chemical Safety Board (CSB) are investigating the ITC incident, CSB said in a March 21 statement. Investigators were slated to visit the site last week to "start interviews . . . and document the scene and collect evidence."

"The massive fire, which began on March 17th, engulfed 11 above ground storage tanks containing a variety of hydrocarbons, resulting in multiple orders for community members to Shelter in Place," CSB says.

"The escalation of the event, looking at how the fire spread from a single tank to others in the tank battery, is certainly something we're interested in," CSB lead investigator Mark Wingard told [Reuters](#).

Investigators will focus on interviewing ITC employees and collecting the facility's documents and information on the facility's tanks.

In the wake of the ITC and Exxon incidents, Public Citizen and other groups had [already urged](#) the Trump administration to preserve EPA's Obama-era Risk Management Plan (RMP) facility safety rule.

In a March 18 statement, Public Citizen's Texas office says the fires show the "dire need" for stricter regulation and oversight. The group specifically faults EPA's plans to roll back the RMP rule.

"The ITC chemical fire demonstrates how chemical disasters happen far too often in our region, often due to lax regulatory oversight and enforcement," Stephanie Thomas, researcher for Public Citizen's Texas office, said. But industry officials have been lobbying the agency to quickly complete its rule rolling back the Obama-era requirements.

E&E News

Court examines oil and gas wastewater dumping

<https://www.eenews.net/energywire/stories/1060142569/search?keyword=EPA>

Pamela King

Posted: April 4, 2019

Green groups yesterday asked a federal appellate court to review a permit for waste disposal from hydraulic fracturing operations in the Gulf of Mexico.

EPA fell short of its duties under the National Environmental Policy Act and the Clean Water Act to study the impact of wastewater discharges on sea turtles, whales and other ocean species, Center for Biological Diversity attorney Kristen Monsell argued before the 5th U.S. Circuit Court of Appeals.

"I think the judges were a bit skeptical of our position, but we think it's absolutely the right one under the law here," she said after oral arguments in Houston yesterday. "The agency is allowing oil companies to dump massive amounts of wastewater and fracking chemicals into the Gulf without studying impacts on marine life."

Plaintiffs in the case, which also include the Gulf Restoration Network and the Louisiana Bucket Brigade, filed their lawsuit last year ([*Energywire*](#), Feb. 14, 2018).

Judge Edith Jones, a Reagan appointee, led the questioning, Monsell said. The panel, which also comprised Trump picks James Ho and Andy Oldham, seemed curious about plaintiffs' arguments that EPA should not have relied on an environmental analysis that predated the widespread use of fracking about a decade ago, she said.

The oil and gas extraction technique carries different risks than conventional approaches, Monsell said.

"There's been a whole host of new information indicating that the impacts of fracking may be quite significant and cause harm to the marine environment," she said. "EPA just dismissed those entirely."

The judges had fewer questions for opposing counsel, she said.

EPA does not comment on pending lawsuits. Lawyers for the American Petroleum Institute, an intervenor in the case, did not respond to a request for comment.

During briefing, the government and API argued that EPA properly issued its discharge permit.

"EPA issued the Permit following a thorough review of potential environmental impacts under NEPA and the CWA," the government wrote in a brief filed last summer.

"Petitioners' claims to the contrary misunderstand applicable law, ignore important facts in the administrative record, and improperly seek to have the Court substitute its judgment for EPA's."

API argued that the plaintiffs lacked standing to file the lawsuit, an issue the judges raised during yesterday's proceedings, Monsell said.

The court will likely issue a ruling in the coming months.

Inside EPA

Ewire: Colorado lawmakers OK sweeping oil and gas bill

<https://insideepa.com/daily-feed/ewire-colorado-lawmakers-ok-sweeping-oil-and-gas-bill>

Staff

Posted: April 4, 2019

Colorado lawmakers have approved sweeping new legislation that could allow local officials to curtail oil and gas drilling, while also making environment and health protection the state's top priority instead of energy production, underscoring the emboldened opposition to the sector in the gas-heavy state.

According to the *Denver Post*, the legislation, SB 181, cleared the Senate on a party-line vote after lawmakers accepted a series of amendments that were adopted in the House.

The changes to the bill were meant to alleviate industry concerns by raising the bar before local officials can clamp down. For instance, an earlier draft of the measure allowed local restrictions on oil and gas development, as long as officials didn't act "arbitrarily or capriciously." The amended bill now says state and local rules must be reasonable and necessary -- a standard that could ease court challenges to new requirements.

The bill's main sponsors said the new provisions were intended to clarify that the bill would not lead to drilling bans or "drastically slowing growth in one of the state's largest industries," according to the *Post*.

While two oil sector groups said they remain "firmly opposed to this bill," they added that it will be critical for state regulators to work with industry as they develop rules to implement the legislation.

As *Inside EPA's Dawn Reeves* recently reported, the legislation underscores the shifting politics in the Centennial State, which had been relatively moderate but is moving more to the left.

The November midterms ushered in Democratic majorities in the legislature after four years of divided control, and new Gov. Jared Polis (D) is far more skeptical of the industry than former Gov. John Hickenlooper (D), a former engineer in the sector who recently launched a bid for the 2020 Democratic presidential nomination.

However, environmentalists in other gas-heavy states are struggling to curtail production over climate change and air quality concerns.

S&P Global

EPA chief tells Congress redistributing waived biofuel volumes would not work

<https://www.spglobal.com/platts/en/market-insights/latest-news/agriculture/040319-epa-chief-tells-congress-redistributing-waived-biofuel-volumes-would-not-work>

Meghan Gordon

Posted: 11:42am, April 3, 2019

Washington (Platts)--03Apr2019/1142 am EST/1542 GMT

The US Environmental Protection Agency would not likely be able to reallocate biofuel volumes waived for smaller refineries to larger plants even if Congress passed legislation requiring it, Administrator Andrew Wheeler said Wednesday.

Senator Roy Blunt, Republican-Missouri, had pressed Wheeler on the impact the small refinery waivers are having on the volume of biofuel blended into US gasoline and diesel supply as required by the Renewable Fuel Standard.

"I think it would be very hard to implement that after the fact," Wheeler said while testifying to the Senate Appropriations Committee. He added that EPA has lost three lawsuits over its past handling of the small refinery waivers.

Renewable Identification Number prices plummeted last year after EPA expanded the use of the waivers.

S&P Global Platts assessed D6 ethanol Renewable Identification Numbers for 2019 compliance at 14.75 cents/RIN Tuesday, unchanged since Friday, and D6 RINs for 2018 compliance at 11.75 cents/RIN, down 0.25 cent from Monday. D6 RINs started 2018 at 70.5 cents/RIN.

RINs are tradable credits EPA issues to track production and use of alternative transportation fuels. For corn-based ethanol, one gallon of ethanol yields one RIN.

Thirty-nine refineries have applied for exemptions from the 2018 biofuel mandate. The waivers are for plants that process less than 75,000 b/d of crude.

Wheeler said EPA would act on the applications as soon as the Department of Energy forwards its analysis of them.

EPA exempted 35 small refineries from 2017 compliance and is still considering one waiver application. It approved 19 waivers for 2016 compliance, with one still pending. The agency has not denied an application since the 2015 compliance year.

-- Meghan Gordon, meghan.gordon@spglobal.com

-- Edited by Valarie Jackson, newsdesk@spglobal.com

Water

Bloomberg Environment

Toxicity Study of Chemours' GenX Expected by Year's End, EPA Says

<https://news.bloombergenvironment.com/environment-and-energy/toxicity-study-of-chemours-genx-expected-by-years-end-epa-says>

Amena Saiyid, Sylvia Carignan

Posted: 5:43pm. April 3, 2019

- EPA laying the groundwork for developing water quality criteria for PFOA, PFOS
- EPA working out details of February PFAS action plan

The EPA plans to complete a study by the end of 2019 assessing the toxicity of GenX, a contaminant that has been found in some of North Carolina's waterways, an agency official said April 3.

And the agency has started laying the groundwork for developing water quality criteria to protect human health and aquatic life from perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), Deborah Nagle, director of EPA's Office of Science and Technology within the Office of Water, told a gathering of drinking water and wastewater officials.

PFOA and PFOS are part of a family of toxic chemicals known as per- and polyfluoroalkyl substances (PFAS).

GenX, was developed by the Chemours Co. to replace PFOA. These compounds are used to make stain-resistant coatings for carpets, rain gear, fast food wrappers, and frying pans.

GenX Action Plan

The Environmental Protection Agency develops national recommended water quality criteria that states can adopt as water quality standards to protect their rivers, lakes, and streams.

The agency's intentions to assess GenX and develop criteria were spelled out in its Feb. 14 action plan to address the widespread contamination from PFAS chemicals.

North Carolina has found evidence that air emissions from Chemours' Fayetteville Works facility were causing widespread contamination of the state's waterways, including the Cape Fear River.

PFAS compounds may cause adverse health effects at sufficient levels of exposure, including developmental harm to fetuses, testicular and kidney cancer, liver damage, immune system or thyroid effects, and changes in cholesterol, according to the EPA.

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CBS Chicago

EPA Now Lets You Download Reports on Local Water System

<https://chicago.cbslocal.com/2019/04/04/water-systems-epa-illinois-lead/>

Staff

Posted: 11:14am, April 4, 2019

Chicago (CBS) — The Illinois EPA is now letting you download reports on your local water system.

These reports will detail the types of materials that make up water distribution grids, so you can look at the number of lead service lines.

All data from 2017 is online, and community water systems have until April 15 to submit their data for 2018. The EPA estimates Illinois has 3.7 million water lines, and about 415,000 are made of lead.

The News-Herald

EPA head says department will seek full funding for Great Lakes restoration program

https://www.news-herald.com/news/nation-world/epa-head-says-department-will-seek-full-funding-for-great/article_1b60f120-562c-11e9-8194-8b5eefae3bd5.html

Andrew Cass

Posted: April 3, 2019

U.S. Environmental Protection Agency head Andrew Wheeler affirmed to members of Congress that the administration is no longer seeking cuts to the Great Lakes Restoration Initiative.

“I love the Great Lakes and completely agreed with President Trump last week when he announced we would fully fund the Great Lakes initiative,” Wheeler said at a House Appropriations Subcommittee on Interior, Environment and Related Agencies hearing.

Wheeler’s affirmation came days after Trump said he supports full funding for the GLRI at a rally in Grand Rapids, Michigan.

That was a reversal of the administration’s budget, which proposed a 90 percent cut to the program’s federal funding.

The Great Lakes Restoration Initiative was launched in 2010 to restore and protect the Great Lakes. Congress appropriated \$2.5 billion from that first year through 2017 to fund more than 3,600 projects that University of Michigan researchers said have “dramatically improved environmental conditions around the region.” The program received about \$300 million in funding annually.

A study from the University of Michigan’s Research Seminar in Quantitative Economics found that every federal dollar spent on Great Lakes Restoration Initiative projects nets \$3.35 in additional economic activity through 2036.

Among those who questioned Wheeler was Rep. Dave Joyce, R-Bainbridge Township.

Joyce asked Wheeler how much money the administration was planning to request in GLRI funding. Wheeler replied that they would be seeking the full \$300 million in funding and would be talking to Office of

Management and Budget about submitting the additional request to Congress to cover the \$270 million difference from the White House's initial proposal.

"So it's safe to say, we're likely to see an addendum from the administration noting the change and indicating where this \$270 million will come from?" Joyce asked in response.

Wheeler responded, "We're certainly going to follow the president's direction on that and we're with OMB on the number and how we ask for that."

This is the third straight year the Trump administration proposed significant cuts to the GLRI. In his first budget, he proposed eliminating funding to the program entirely. Last year the administration proposed a 90 percent cut. In both cases the program received its full funding.

Wheeler, who grew up in Southwest Ohio, said he believe's he's the only EPA head to go swimming in the Great Lakes.

Joyce said he remembers going swimming in Lake Erie in the 1960s and '70s.

"I'm amazed I still have any hair," Joyce joked. "We've come a long way since those days with the restoration initiatives and efforts that we've done."